

**MINUTES  
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

**June 21, 2011 – 7:00 P.M.**

The regular meeting of the Newton City Council was held on Tuesday, June 21, 2011 at 7:00 p.m. in the Council Chambers at City Hall.

**PRESENT:** Mayor Robert A. Mullinax, Mayor Pro Tem Anne Stedman, Council Members Wayne Dellinger, Mary Bess Lawing, Tom Rowe, Bill Lutz, and Robert C. Abernethy, Jr.

**STAFF:** City Manager Todd Clark, City Attorney Larry Pitts, City Clerk Amy S. Falowski, City Department Heads, and members of the Management Team.

**ITEM 1: CALL TO ORDER – MAYOR ROBERT A. MULLINAX:**

Mayor Robert A. Mullinax welcomed everyone, and called the meeting to order.

**ITEM 2: OPENING – COUNCIL MEMBER WAYNE DELLINGER**

Council Member Wayne Dellinger led the Pledge of Allegiance.

**ITEM 3: APPROVAL OF MINUTES FROM THE June 7, 2011 REGULAR MEETING:**

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That the Minutes of the June 7, 2011 Regular City Council meeting be –  
APPROVED.

**ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS:**

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Mayor Pro Tem Anne Stedman, it was unanimously RESOLVED:

That Consent Agenda be – APPROVED.

- A. **Consideration to Appoint Jim Granny to Planning Commission**
- B. **Consideration of Re-Appointments of Todd Clark to the Western Piedmont Transit Authority Board and Glenn Pattishall as Alternate Board Member**

- C.     **Consideration of Code Enforcement Nuisance Violation – 1311 Poplar Circle**
- D.     **Consideration of Code Enforcement Nuisance Violation – 429 S Caldwell Avenue**
- E.     **Consideration of Code Enforcement Nuisance Violation – 704 E F Street**
- F.     **Sewer Adjustments**

(Resolutions are hereby referenced and on file in the office of the City Clerk)

**ITEM 5:**     **COMMENTS FROM THE PUBLIC: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):**

Mayor Robert A. Mullinax asked if there was anyone present that would like to make any comments concerning non-agenda items.

Eddie Ide, of 15 North College Avenue, asked that the Council not charge a fee for online credit card payments. He stated that most utility companies do not charge fees. Mr. Ide stated that the staff has done a really good job with cut backs in the budget this year, but that this detracts from otherwise good fiscal responsibility.

Mayor Mullinax stated that this is a service to be offered, and that it is for the convenience of the citizens. He explained that citizens can still come to city hall to pay, or mail their payments for utility services. He stated that the option is there if someone wants it, but if not they don't have to use it.

Council Member Robert C. Abernethy Jr. asked if the city can negotiate with the credit card service providers on the charges. Mayor Mullinax answered that that is not an option.

Mayor Mullinax asked if anyone else would like to speak before City Council. No one appeared.

**ITEM 6:**     **OLD BUSINESS:**

- A.     **Consideration of Capital Project Budget Ordinance Amendment – Target CDBG**

Planning Director/Assistant City Manager Glenn Pattishall stated that this request for council action is a capital budget ordinance amendment for the 2006 CDBG Target Distribution Center capital project, which is still active.

Mr. Pattishall explained that the City is nearing the closeout of this capital project and some accounting adjustments between the water and sewer portions of the project budget ordinance are

necessary to reflect actual expenditures appropriately. The proposed budget ordinance amendment will move \$318,650 from the sewer line item to the water line item of the existing capital project budget ordinance. This is strictly an accounting measure and will not require appropriation from any of the City's funds or fund balances.

Mr. Pattishall stated that staff does anticipate some additional expenses, (unknown at this time), and may come back to Council for additional amendments to line items in the project budget in the coming 2011-12 fiscal year

Mr. Pattishall recommended that Council adopts the proposed capital project budget ordinance amendment.

Upon motion duly made by Council Member Bill Lutz, seconded by Council Member Wayne Dellinger, it was unanimously RESOLVED:

That Capital Project Budget Ordinance Amendment – Target CDBG be –  
ADOPTED.

(Ordinance 2011-18 is hereby referenced and on file in the office of the City Clerk)

**Ordinance 2011-18**  
**City of Newton's Project Budget Ordinance**  
**Amendment for the 2006 Community Development Block Grant**  
**(Target Distribution Center Economic Development Project)**

Be it ordained by the City Council of the City of Newton that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby amended.

Section 1. The project authorized is the Community Development Project described in the work statement contained in the Grant Agreement (#06-E-1556) and the Industrial Development Fund Grant Agreement (#I-347) between this unit and the Department of Commerce. This project is more familiarly known as the Target Distribution Center Economic Development Project.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the Department of Commerce, and the budget contained herein.

Section 3. As the City nears completion of this capital project, the Budget Ordinance Amendment will transfer \$318,650 from the Capital Outlay – Sewer line item to the Capital Outlay – Water line item in an effort to reflect the actual expenditures appropriately.

Section 4. The following amounts are appropriated for the project:

Expenditures

Target Distribution Center Economic Development Project:

Capital Outlay – Sewer Lines	22.7100.8942	(\$318,650)
Capital Outlay – Water Lines	22.7100.8951	\$318,650

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and federal and state regulations.

Section 6. Funds may be advanced from the General Fund or Water/Wastewater Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this Board.

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this, the 21st day of June, 2011

## **B. Consideration of Resolution to Close Out Capital Projects**

Finance Director Serina Hinson stated that the City of Newton periodically establishes capital project ordinances for endeavors that involve construction activities. In most cases, the duration of a construction project will extend from one fiscal year into another. Consequently, the adoption of a capital project ordinance allows the governmental entity to appropriate funds for the life of the project without the governing board having to reallocate funding on a fiscal year basis.

The City has five capital projects which were complete as of June 30, 2010:

- 1) North Carolina Housing Finance Agency Urgent Repair Program
- 2) Jacob Fork Park
- 3) Jacob Fork Delivery Station
- 4) Electric Line Extension – Falls Subdivision
- 5) Electric Infrastructure – Falls Subdivision

Mrs. Hinson recommended approval of Resolution 35-2011 to close out the above noted projects which were complete as of June 30, 2010 and for approval to revert remaining unspent funds to the respective operating fund.

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Mayor Pro Tem Anne Stedman, it was unanimously RESOLVED:

That Resolution 35-2011 – To Close-out Capital Projects which were complete as of June 30, 2010 be – ADOPTED.

(Resolution 35-2011 is hereby referenced and on file in the office of the City Clerk)

**ITEM 7:**      **NEW BUSINESS:**

**A.      Consideration of Bid Award for a Mobile Burn Trailer**

Fire Chief Kevin Yoder stated that the City of Newton Fire department received notification in November of 2010 that the department was being awarded a grant by FEMA under the Assistance to Firefighters Grant Program. Chief Yoder explained that this grant is for the purchase of a Mobile Fire Training Unit for instruction in live fire operations and proper extinguishment as well as other training features.

Chief Yoder explained that the total project amount of the grant is \$124,000, with the federal share being \$111,600 and the city's share being \$12,400. Chief Yoder reminded the Council that the grant was unanimously accepted during the November 16, 2010 meeting and that this expenditure and revenue is budgeted in the approved FY 2011-2012 budget.

Chief Yoder stated that the City of Newton conducted the required bidding process and received five bids. The bid results are as follows:

Warehouse on Wheels - \$123,500  
Fire Training Structures - \$120,900  
WLP Training Towers - No Bid  
Fire Facilities - \$128,212  
Fire Blast 451 Inc.- \$118,700

Chief Yoder stated that the lowest bid of \$118,700 has been deemed unresponsive to the city's specifications due to two issues. The bidder took exception to a key component of the specifications for temperature monitoring as well as including special payment requirements that are inconsistent with the City of Newton policies for payment.

Chief Yoder recommended that the second lowest bid of \$120,900, submitted by Fire Training Structures, LLC, be accepted. This bidder met all specifications in addition to including a much larger burn area than originally specified for the unit, and will comply with the City of Newton payment policies.

Mayor Mullinax asked where the Training Trailer would be located. Chief Yoder answered that it would be on the concrete pad at the old A&P Shopping Center.

Council Member Wayne Dellinger questioned whether or not the city could save some portion of its share by taking a lower bid. Chief Yoder stated that the savings would only amount to about \$400, and that they can use the difference between the \$124,000 and the \$120,900 awarded for

the Training Trailer to purchase other training equipment such as a smoke machine and rescue dummy.

Upon motion duly made by Council Member Bill Lutz, seconded by Mayor Pro Tem Anne Stedman, it was unanimously RESOLVED:

That the Bid for a Mobile Burn Trailer to Fire Training Structures, LLC in the amount of \$120,900 be – AWARDED.

**B. Consideration of Award of Electronic Payments**

Finance Director Serina Hinson stated that at the February 1, 2011 Council Meeting, she asked Council to provide direction to staff on which format of services they would like to provide to customers. Council requested that the City provide all services (internet, telephone/IVR and face-to-face) which will allow the City to pass on the related fees to the customers whom are utilizing the service.

Mrs. Hinson stated that in February the City requested proposals for merchant services and that 5 institutions responded. Those institutions providing proposals were BB&T, RBC, Suntrust, NCO and Official Payments. Convenience fees proposed ranged from \$2.95 up to \$6.00 per transaction. Some of the proposals not only included a convenience fee to the customer; but, some also included additional monthly fees which would be billed to the City.

The lowest proposal, which staff is not recommending, was received from Official Payments with a \$2.95 convenience fee on any payment up to \$250. Even though the City's average customer would fall below this amount, staff feels like the customers whom would be utilizing the service will exceed this amount requiring a customer with a bill of \$251 - \$500 to pay \$5.90 and a bill of \$501 - \$750 to pay \$8.85. Official Payments will provide a 48 hour turnaround on funds due to the City in lieu of 24 hours.

Mrs. Hinson recommended that City Council award NCO Financial Services, Inc. the bid to provide merchant services (electronic payments). She explained that all fees are included in the convenience fee of \$3.60 for VISA, Mastercard, debit cards and electronic checks via the internet and telephone/IVR (Interactive Voice Response is an automated system). This fee will be passed on to the customer at the time of the transaction. The City will not accept face-to-face transactions at this time due to not having the ability to apply a convenience fee to the transaction. She stated that a dedicated telephone could be set up at City Hall to allow customers there to make an electronic payment.

Mrs. Hinson explained that NCO will also provide a quicker turnaround on funds due to the City than most of the others, with the exception of BB&T whom will also provide within 24 hours. NCO also provides a live person via the telephone 24 hours a day/7 days a week for those customers which prefer this method.

Mayor Mullinax questioned the use of the phone in the lobby, and asked if a note could be permanently added to the utility bills with instructions on the various ways to pay. Mrs. Hinson answered that the phone in the lobby is only an option, and that it could be taken out of the proposal. She also stated that instructions could be added to the bills.

Council Member Robert C. Abernethy, Jr. stated that he hated to charge the citizens for this option, but realizes that the City doesn't have control of that issue. He asked if face to face transactions were possible, and Mrs. Hinson stated that the City, according to statute, would have to pay a service fee. She explained that the statutes are different for private versus public entities.

Council Member Mary Bess Lawing stated that this is just a convenience to the citizens that would like to pay their bills this way.

Mrs. Hinson stated that the contract is for one year, and that the City could try this way and make changes next year. Mayor Mullinax stated that he thought that would work well because it would be at budget time, and Council could discuss the matter at the budget workshops.

Upon motion duly made by Council Member Wayne Dellinger, seconded by Council Member Bill Lutz, it was unanimously RESOLVED:

That Bid for Electronic Payments – to NCO, without the telephone in the lobby option AND with a convenience fee to customers in the amount of \$3.60 be –  
AWARDED .

#### **ITEM 8: CITY MANAGER'S REPORT:**

City Manager Todd Clark reported on the following:

- Water leak at the intersection of C & D streets, that has not been located yet
- 24kv conversion is going on in South Newton
- Pre-bid meeting on Burriss Road Pump Station, request to award bid will be on August agenda
- EDC annual meeting scheduled for July 20, 2011
- Explained that a copy of the Capitol Connections was in their agenda packets which contains various reports and legislative updates

Mayor Mullinax stated that he would like to take this time to tell Council about a meeting that he and Mr. Clark attended with the staff of Abernethy Laurels concerning the widening of Hwy 16. He stated that he is going to contact NCDOT to try to address some concerns that Abernethy Laurels has, such as not being able to make left turns out of the facility and the fact that they would like to see a traffic light placed at their entrance/exit. Mayor Mullinax stated that while

the City supports the NCDOT widening project, he would like to help the staff at the Abernethy Laurels facility, and that he intends to help them as much as he can.

City Manager Todd Clark stated that the 30 day comment period to contact NCDOT ends on July 6, 2011, to which the Mayor replied that he would get in touch with them during that time period.

Council Member Robert C. Abernethy, Jr., asked if the divided 4-lane with no left turn could adversely affect people with limited driving privileges. Mayor Mullinax replied that that was an excellent point, and that concerns were also brought up about emergency vehicle traffic to and from the facility.

**ITEM 9: QUESTIONS AND COMMENTS FROM MAYOR AND COUNCIL:**

Mayor Mullinax asked if there were any questions or comments from City Council.

Mayor Pro Tem Anne Stedman stated that Movies in the Park has started and would like to encourage people to go.

**ITEM 10: CLOSED SESSION TO CONSULT WITH THE CITY ATTORNEY – G.S. 143-318.11 (A) (3):**

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Council Member Mary Bess Lawing, it was unanimously RESOLVED: to go to CLOSED SESSION to discuss a legal matter.

The Council, Mayor, City Attorney and City Clerk met in the Council Chambers for the purpose of discussion of a legal matter. No action was taken.

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council member Robert C. Abernethy, Jr., it was unanimously RESOLVED: to leave closed session and return to open session.

**ITEM 11: ADJOURNMENT:**

There being no further business, the meeting – ADJOURNED at 8:15 p.m.

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Robert A. Mullinax, Mayor

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Amy S. Falowski, City Clerk



